



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

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|------------------------------|---|---------------------------------|
| ANDREANNA ANN TEMPLE, | § | |
| Plaintiff, | § | |
| | § | |
| vs. | § | CIVIL ACTION NO. 8:16-02694-MGL |
| | § | |
| THE STATE OF SOUTH CAROLINA, | § | |
| Defendant. | § | |

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND
DISMISSING THE CASE WITHOUT PREJUDICE PURSUANT TO FED. R. CIV. P. 41(b)

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that the case be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on November 30, 2016, but Plaintiff failed to file any objections to the Report. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

In regards to Plaintiff’s failure to file any objections, the Court notes that in the Magistrate Judge’s August 15, 2016, Proper Form Order, she directed Plaintiff that she was “ordered to always keep the Clerk of Court advised in writing (United States District Court, 300 East Washington Street, Room 239, Greenville, South Carolina 29601) if your address changes for any reason, so as to assure that orders or other matters that specify deadlines for you to meet will be received by you. If, as a result of your failure to comply with this Order, you fail to meet a deadline set by this Court, your case may be dismissed for violating this Order. Therefore, if you have a change of address before this case is ended, you must comply with this Order by immediately advising the Clerk of Court in writing of such change of address and providing the Court with the docket number of all pending cases you have filed with this Court. Your failure to do so will not be excused by the Court.” ECF No. 13. On October 31, 2016, the Clerk of Court entered Plaintiff’s Notice of Change of Address, ECF No. 19, and then the Court mailed an Order granting Plaintiff twenty-one additional days to comply with its Orders on November 2, 2016, ECF No. 23. The Magistrate Judge previously filed a second Proper Form Order on October 6, 2016, containing the same language quoted above. On November 28, 2016, and December 13, 2016, the Court’s November 2, 2016, Order and the

Report, respectively, were returned to the Clerk marked “RETURN TO SENDER[.]” ECF Nos. 26, 30. Evidently, Plaintiff has failed to follow the dictates of the Court to keep the Clerk apprised of any address change. Consequently, the blame for Plaintiff’s failure to either receive or object to the Report lies squarely on her shoulders.

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that the case is **DISMISSED WITHOUT PREJUDICE** pursuant to Fed. R. Civ. P. 41(b).

IT IS SO ORDERED.

Signed this 14th day of December, 2016, in Columbia, South Carolina.

s/ Mary Geiger Lewis
MARY GEIGER LEWIS
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.